

EXHIBIT 10

1
2 UNITED STATES DISTRICT COURT
3 FOR THE DISTRICT OF PUERTO RICO
4

5 In re:

6 THE FINANCIAL OVERSIGHT AND
7 MANAGEMENT BOARD FOR PUERTO
8 RICO,

PROMESA

Title III

9 as representative of
10 THE COMMONWEALTH OF PUERTO RICO,
11 et al.,
12 Debtors.

13 In re:

14 THE FINANCIAL OVERSIGHT AND
15 MANAGEMENT BOARD OF PUERTO RICO,

PROMESA

Case No.

17 BK 4780-LTS

16 as representative of
17 PUERTO RICO ELECTRIC POWER AUTHORITY,
18 Debtor.

19 (Caption continued on following page.)

20 * P R O F E S S I O N A L E Y E S O N L Y *

21 VIDEOTAPED DEPOSITION

22 OF

23 DAVID BROWNSTEIN

24 New York, New York

25 Wednesday, October 16, 2019

Reported by:

ANNETTE ARLEQUIN, CCR, RPR, CRR, CLR

JOB NO. 169670

1 D. Brownstein - Professional Eyes Only
2 bonds in the tobacco market, which are
3 securitizations and, as you may be aware,
4 secured by payments into states from the
5 tobacco companies that are securing those
6 securitization bonds.

7 Q. Okay.

8 A. We looked at securitizations in
9 the utility space, and we looked at where
10 high-yield bonds were trading in the
11 secondary market.

12 Q. Let me ask you a few questions
13 about that.

14 When you say you looked at the
15 utility space, was that power generation or
16 some other type of utility?

17 A. Securitizations have been used
18 primarily in the utility space for closures
19 of nuclear power plants. But they've also
20 been used for issuers such as Long Island
21 Power Authority to finance their legacy
22 assets.

23 Q. And you believe that those types
24 of bonds in the utility space provide a
25 basis of comparison to arrive at 5.25

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2 percent for the coupon rate on these bonds?

3 MS. SPILLANE: Objection to form.

4 A. I believe that all of those
5 securities I mentioned assist in
6 determining what is a fair market value.

7 Q. Okay. You indicated, I believe,
8 that you looked at certain high-yield
9 bonds.

10 Were those municipal high-yield
11 bonds?

12 A. Yes. Everything we looked at was
13 a municipal.

14 Q. When did you look -- did you look
15 at all these different bonds at the same
16 period of time?

17 A. Yes, sir.

18 Q. Okay. And when did you look?

19 A. As we were negotiating the price
20 and the coupon for the bonds, of course
21 there were, as you have seen from
22 documentation, arguments between us and the
23 creditors as to what was the appropriate
24 coupon for the bonds. And so we needed to
25 justify the coupon we were using.

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2 Q. Okay. Can you tell me what
3 period of time this took place?

4 A. I can't.

5 Q. Well, can you tell me if it was
6 2018?

7 A. Yes.

8 Q. Okay. So would it be fair to say
9 that the coupon rate was -- or you looked
10 at these other bonds to determine the range
11 in 2018?

12 MR. MASHBERG: Objection to the
13 form.

14 A. I would suggest that we were
15 looking at them as we were discussing with
16 the board what was the appropriate rate and
17 as we were making our proposals to the
18 creditors.

19 Q. Okay. And do you know the last
20 time that you looked at these different
21 bonds, the utility space bonds, the
22 high-yield bonds, and the tobacco market
23 bonds?

24 MS. SPILLANE: Objection to form.

25 A. It would have been prior to the

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2 agreement of the preliminary RSA.

3 Q. I think that you mentioned with
4 respect to the tobacco securitization
5 bonds, those have -- is it your
6 understanding those have a guaranteed
7 revenue stream?

8 MS. SPILLANE: Objection to form.

9 A. They have a revenue stream to the
10 extent it exists.

11 Q. Okay. How about with the utility
12 space bonds that you looked at?

13 A. Those have a guaranteed revenue
14 stream to the extent that there's
15 compliance with the terms of the documents.

16 Q. Okay. And the municipal
17 high-yield bonds, did you look at the
18 entire market or specific bonds within that
19 high-yield bond space?

20 A. We looked at the entire market,
21 including many different types of security
22 structures.

23 Q. Would it be fair to say that you
24 looked at the entire market or you looked
25 at the entire market and then specific

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2 bonds within that market?

3 MS. SPILLANE: Objection to form.

4 A. I don't understand your question.

5 Q. Okay. I understood, and I could
6 have misunderstood, that you looked at the
7 entire high-yield bond market.

8 But I want to clarify and make
9 sure, did you look at individual municipal
10 high-yield bonds within the high-yield bond
11 market as well?

12 MR. MASHBERG: Objection to form.

13 A. Your last question was about the
14 entire market --

15 Q. Yes.

16 A. -- not specifically about the
17 high-yield market?

18 Q. Right, which is why I want to
19 clarify.

20 A. To clarify, I said the high-yield
21 market.

22 Q. Okay. Are you familiar with the
23 COFINA bonds?

24 A. Yes.

25 Q. Did you look at the COFINA bonds

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2 at all in determining the coupon rate?

3 MR. MASHBERG: Objection to form.

4 A. To go back a step so you
5 understand, I'm the one who determines the
6 COFINA yields.

7 Q. Right.

8 A. And, therefore, I would have
9 taken them into account in my analysis.

10 Q. And when did you determine the
11 rate for the COFINA bonds?

12 A. At the time that we entered into
13 the restructuring support agreement in
14 mediation for COFINA.

15 Q. Okay. And the bond yields, do
16 you know what's happening with the bond
17 yields with respect to -- or let me
18 rephrase it.

19 Do you know whether or not the
20 COFINA bonds are now trading above par?

21 A. Some of them are, yes. We've had
22 a significant amount of luck in the market
23 because the entire municipal market due to
24 supply and demand has increased in value
25 and, therefore, decreased in yield

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2 dramatically over the past six months.

3 Q. I'm sorry, six months?

4 A. Yes.

5 Q. Did you update --

6 A. And by the way, I should note
7 that not all of the bonds are over par now.
8 Some are below.

9 Q. Right.

10 Are the 2058 COFINA bonds over
11 par?

12 A. I'm sorry, I can't get that
13 specific for you. I don't track it on a
14 daily basis.

15 Q. I appreciate the clarification.

16 A. I believe it's the longest bonds
17 that are still all below par, just for the
18 record.

19 Q. Okay. Thank you.

20 Is it your practice to update the
21 FOMB with respect to the yields -- I'm
22 sorry, the current interest rates with
23 respect to the high-yield bond market?

24 MS. SPILLANE: Objection to form.

25 MR. MASHBERG: Objection to form.

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2 A. No.

3 Q. Do you know what the current
4 yields are in the high-yield bond market?

5 MS. SPILLANE: Objection to form.

6 MR. MASHBERG: Objection to form.

7 A. I'm sorry, to be clear, there are
8 thousands of names in the high-yield
9 municipal market, so I don't understand
10 your question.

11 Q. If yields come down, is it your
12 experience that that's a benefit to the
13 bondholders?

14 MS. SPILLANE: Objection to form.

15 MR. MASHBERG: Objection to form.

16 A. If yields come down, the
17 beneficiary of that would be the existing
18 bondholder on that day, correct.

19 Q. When establishing the 5.25
20 percent, did you sound the market?

21 A. I don't understand your question,
22 sir.

23 Q. I'll try to rephrase it to be
24 clear and come back to you.

25 In your declaration, you analyzed

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2 the total consideration that was to be paid
3 to supporting holders under the RSA.

4 Is that a fair statement?

5 A. Yes.

6 Q. Okay. Did you negotiate those
7 numbers? Were you involved in negotiating
8 the percentage and total recoveries under
9 the RSA?

10 A. Yes.

11 Q. Now in doing that, did you have a
12 threshold recovery percentage that you
13 would not have exceeded?

14 A. No.

15 Q. Now in creating that analysis of
16 the consideration that was paid, did you
17 put -- let me ask you, are you familiar
18 with the terms "settlement payments,"
19 "administrative claims"? You're familiar
20 with those?

21 MR. MASHBERG: Objection to form.

22 MS. SPILLANE: Objection to form.

23 A. Yes.

24 Q. Did you put a value on the
25 settlement payments in calculating the

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2 total consideration that would be paid
3 under the RSA?

4 MS. SPILLANE: Objection to form.

5 MR. NATBONY: Objection to form.

6 A. I don't understand your question.

7 Q. Do you think that settlement
8 payments during the course of negotiations,
9 did that represent a value that you were
10 exchanging in order to arrive at a deal for
11 the RSA?

12 MS. SPILLANE: Objection to form.

13 MR. MASHBERG: Objection to form.

14 A. I still don't understand your
15 question.

16 Q. In arriving at the RSA, did you
17 analyze the likelihood of different
18 litigation scenarios during the course of
19 negotiations?

20 MR. MASHBERG: Objection to form.

21 MS. SPILLANE: Objection to form.

22 A. I am not a lawyer. I didn't
23 analyze anything when it comes to legal
24 determinations.

25 Q. Well, did you take anyone's

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2 determinations and try to ascribe a dollar
3 value it in the course?

4 MS. SPILLANE: Objection to form.

5 MR. MASHBERG: Objection to form.

6 A. I think you need to get a little
7 more specific.

8 Q. Okay.

9 A. It's too generic for me.

10 Q. Okay. Did you contemplate
11 different litigation scenarios in the
12 course of negotiating the RSA?

13 MR. MASHBERG: Objection to form.

14 MS. SPILLANE: Objection to form.

15 Same question.

16 A. So I think it would be helpful if
17 I take a step back for you and help you
18 understand our goals and objectives at the
19 board in negotiating the settlement.

20 So let's start with the critical
21 pieces of the puzzle for us.

22 First and foremost, the board was
23 not comfortable with leaving the public in
24 Puerto Rico with a structure of a security
25 that could result in significant increases

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2 in cost to the public without some known
3 factor to it.

4 And I know you have the
5 presentation that we made to creditors
6 before the board turned down the original
7 RSA. And what it said in there is we were
8 prepared to live with a band around rates
9 and charges. That proposal was turned down
10 by the creditors.

11 So when we went back to negotiate
12 with the creditors, we basically required
13 that they agree to a couple of important
14 factors. The first and foremost was that
15 we were locking the rates and charges
16 payable by the public, which means there
17 would be no rate covenant -- in a
18 securitization, it's known as a true-up; in
19 a revenue bond, it's known as a rate
20 covenant -- so that the investors would
21 know that there would be a cash flow
22 available to make sure they were paid back
23 over time.

24 Q. Okay.

25 A. Okay? So that's item 1.

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2 Item 2 is, we wanted to reduce
3 the par amount of debt.

4 Number 3 is, we wanted to make
5 sure that we didn't interfere with
6 transformation. So what that meant is we
7 couldn't have debt issued or an obligation
8 of PREPA because it was possible that
9 through transformation, PREPA would no
10 longer exist, which was one of our goals.

11 So what we were focused on, to be
12 clear for you, is how do we create a
13 construct acceptable to the creditors under
14 those criteria. And to make sure you're
15 aware of it, which it says in my
16 declaration, as far as I know, on a global
17 basis, there has never been a debt
18 financing for a utility where there is no
19 mechanism to increase the cost to the
20 consumer for utilization of the assets in
21 the event utilization goes down for
22 whatever reason.

23 So that was our key criteria in
24 negotiating a restructuring of the debt.

25 Q. Okay. Are you done?

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2 A. Yes.

3 Q. Thank you. Thank you for that.

4 I have a couple of questions
5 about that. You've used the term a few
6 times "creditors."

7 To whom do you refer to, all
8 creditors or someone else or another group?

9 A. I refer to in the case of this,
10 the negotiations with the creditors, which
11 included the ad hoc group, the three
12 monoline insurers, the fuel line lenders.

13 Q. Okay. But PREPA -- are you aware
14 whether or not PREPA has creditors beyond
15 those entities you just identified?

16 A. Yes, I am. But what we're
17 talking about here is the structure of the
18 debt that was being issued to replace the
19 existing debt of those creditors.

20 Q. I understand that. I had moved
21 on to a different question. I'm sorry if I
22 was unclear.

23 A. Okay.

24 Q. Now those creditors, were any of
25 those creditors involved in any litigation

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2 with respect to claims asserted on behalf
3 of bonds that they had held?

4 MR. NATBONY: Objection to form.

5 MR. MASHBERG: Objection to form.

6 A. I understand that the -- certain
7 of those bond creditors that I was talking
8 about were litigating or had proposed to
9 litigate, I don't know if they started the
10 litigation or not, on a receiver motion to
11 start, which was a right I believe they had
12 under the indenture of trust relating to
13 the revenue bonds outstanding.

14 Q. Okay. Are you aware of any
15 claims or positions that the FOMB had taken
16 with respect to the extent or nature of the
17 security that the bondholder creditors
18 claimed?

19 MS. SPILLANE: Objection to form.

20 MR. MASHBERG: Objection to form.

21 A. I believe Proskauer was -- either
22 has or was considering litigating on
23 whether the bondholders had a lien.

24 Q. Okay. Now going back to a few
25 moments, did you consider that lien issue

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2 that you just identified in the course of
3 your negotiations?

4 MS. SPILLANE: Objection to form.

5 A. We discussed with Proskauer and
6 the board the possible benefits of the lien
7 challenge. But we also discussed with
8 Proskauer and the board the desire to find
9 a settlement with the creditors for several
10 reasons. I think I've described some of
11 them.

12 One, the risk of the receiver
13 motion would be that rates would
14 significantly increase and the bondholders
15 would have a true-up mechanism, a rate
16 covenant that would apply as well.

17 Two, that if we were in
18 litigation, it would impact our process of
19 transformation, which was the second
20 critical fact in determining the roadmap to
21 a successful agreement amongst creditors
22 and the board and ultimately all government
23 parties.

24 Q. Okay.

25 A. And so in the end here, we tried

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2 to strike the right balance between risks
3 and rewards.

4 Q. Thank you.

5 With respect to -- you mentioned
6 the risk of the receiver motion.

7 Did anyone evaluate what that
8 risk was?

9 MS. SPILLANE: Objection to form.

10 A. We discussed it, but the people
11 who would have evaluated it are Proskauer,
12 not Citi.

13 Q. I understand that.

14 But did Citi, once that -- if
15 that risk was evaluated, did Citi do
16 anything to ascribe a monetary value or a
17 settlement value to the risk of that
18 receiver motion?

19 MS. SPILLANE: Objection to form.

20 MR. NATBONY: Objection as to
21 form.

22 A. The determination by the
23 government and the board was that there was
24 a risk that we didn't want the public in
25 Puerto Rico to continue to have. And that

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2 was the determination for negotiating a
3 settlement.

4 Q. Okay. So was it the fact the
5 risk existed, not the level of risk?

6 Would that be fair?

7 MS. SPILLANE: Objection to form.

8 A. Correct.

9 Q. Also you mentioned on the second
10 part of your response, litigation -- and I
11 wrote this down, tell me if I'm wrong --
12 could impact, could have an impact?

13 Do you recall that?

14 A. What I said is what I said.

15 Q. Okay.

16 A. I'm not going to recall what I
17 said.

18 Q. All right.

19 A. If you want them to read it back,
20 we can do that.

21 Q. All right. If the FOMB -- I
22 believe -- if the FOMB had been successful
23 on these lien challenges that we
24 identified, would that have had a positive
25 impact in transformation?

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2 MS. SPILLANE: Objection to form.

3 MR. MASHBERG: Objection to form.

4 A. I have no idea.

5 Q. Okay.

6 A. But what I do know is it would
7 have taken a long time, which is what we
8 were trying to avoid.

9 Q. So would you say that the
10 expediency was a critical factor in the
11 evaluation?

12 MS. SPILLANE: Objection to form.

13 MR. MASHBERG: Objection to form.

14 A. Timing was a factor in our
15 determinations, yes.

16 Q. Was it an important factor?

17 MS. SPILLANE: Objection to form.

18 A. I don't have an answer to that
19 question.

20 Q. While that's getting handed out,
21 let me ask you, going back to the coupon
22 rate, is that 5.25 percent coupon rate on
23 the bonds locked in?

24 A. Yes.

25 Q. Okay. Any circumstance under

1 D. Brownstein - Professional Eyes Only
2 which it can change?

3 A. Not that I'm aware of.

4 Q. And I believe with respect to
5 timing, you indicated that when you
6 performed the analysis to come at the 5.25
7 percent, that it was done in 2018?

8 MS. SPILLANE: Objection to form.

9 A. I believe so.

10 Q. Okay. Is there a reason that the
11 coupon rate wasn't -- or was the coupon
12 rate revisited after the preliminary RSA?

13 A. Not that I recall.

14 Q. Do you know why it wasn't?

15 MR. MASHBERG: Objection to form.

16 A. We had an agreement.

17 Q. Was the preliminary RSA binding
18 or unbinding, in your opinion?

19 MS. SPILLANE: Objection to form.

20 A. It was binding.

21 Q. So is it your understanding that
22 the 5.25 percent would have been locked in
23 as of the date of the preliminary RSA or at
24 some other point?

25 A. I believe it was the preliminary

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<p>1 D. Brownstein - Professional Eyes Only 2 RSA, but I need to go back and look at all 3 the documents. 4 (Brownstein Exhibit 3, Email 5 chain beginning with email dated 6 4/26/19 from ICG-MKTS, Castiglioni and 7 sent to Batlle and Porter and others 8 with attachments, Bates-stamped 9 CGMIRSA_001458 through 1465, marked for 10 identification, as of this date.) 11 BY MR. ARRASTIA: 12 Q. Let me ask you if you recognize 13 this is document which I'll mark as 14 Exhibit 3. 15 MR. MASHBERG: The Bates-stamp 16 number in the record for clarity? 17 MR. ARRASTIA: Yes, No. 3. 18 MR. MASHBERG: The Bates. 19 MR. ARRASTIA: Oh, I'm sorry, the 20 Bates. 21 That begins on 1458, ending on 22 1465, with the prefix CGMIRSA. 23 MR. MASHBERG: Thank you. 24 A. I'm sorry, are you asking me if I 25 recognize the email, or the presentation,</p>	<p>1 D. Brownstein - Professional Eyes Only 2 or both? 3 Q. Well, let's start with both. Do 4 you recognize both? 5 MR. NATBONY: Objection to form. 6 (Document review.) 7 A. Yes. 8 Q. Looking at the PREPA discussion 9 material that begins on Bates No. 1460, if 10 you could look at the last page of that. 11 (Witness complies.) 12 Q. It's entitled "Benefits and 13 Considerations of the Current PREPA RSA." 14 A. Um-hmm. 15 Q. Is that reflective of the type of 16 information that would be given to the 17 board? 18 MS. SPILLANE: Objection to form. 19 A. Some of the information that was 20 given to the board. 21 Q. Okay. And what other 22 communications would be reflective, not 23 exhaustive, but reflective of the 24 information that would be given to the 25 board regarding the PREPA RSA?</p>
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<p>1 D. Brownstein - Professional Eyes Only 2 MS. SPILLANE: Objection to form. 3 MR. MASHBERG: Objection to form. 4 MR. NATBONY: Objection to form. 5 A. We had numerous calls either with 6 the board as a whole or with each 7 individual board member to review all of 8 the concepts embedded in the PREPA RSA. 9 Q. Okay. 10 A. The PREPA securitization 11 structure is probably the most complex 12 thing any of us involved have ever seen or 13 hopefully will see in our lifetime. And 14 the fact is that it took a lot of dialogue 15 with the board and the other advisers to 16 the board and the government to get people 17 comfortable with the terms of it. 18 Q. Okay. So would it be fair to say 19 that the other types of communications that 20 would be reflective of the information 21 given to the board would have occurred 22 through phone calls and other verbal 23 communications? 24 MR. MASHBERG: Objection to form. 25 MS. SPILLANE: Objection to form.</p>	<p>1 D. Brownstein - Professional Eyes Only 2 A. Some of it, some of it would have 3 been in presentations, of which there were 4 many. 5 Q. Okay. Did you keep notes of the 6 phone calls or personal conversations with 7 the board or the individual members of the 8 board? 9 A. No, I don't keep notes. 10 Q. On the top right where it says, 11 "Power revenue bonds may be unsecured 12 because perfection was defective, 13 successful litigation could result in lower 14 recoveries" -- 15 A. Um-hmm. 16 MR. MASHBERG: I'm sorry, where 17 are you? 18 THE WITNESS: On the last page. 19 MR. ARRASTIA: Last page of Bates 20 No. 1465. The title of the page is 21 "Benefits and Considerations of the 22 Current PREPA RSA." 23 MR. MASHBERG: Got it. 24 A. Um-hmm. 25 Q. Okay. These power revenue bonds</p>

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2 -- well, first of all, let me ask you, do
3 you have an understanding of the difference
4 between a nonrecourse and a recourse bond?

5 MS. SPILLANE: Objection to form.

6 A. I'm not quite sure of your
7 question. Perhaps you could you describe
8 the difference.

9 Q. Well, are you familiar with the
10 concept that some bonds or some
11 obligations, there is recourse against the
12 issuer in the case of a default; and in
13 other instances, there is no recourse or
14 there is no opportunity to seek a recovery
15 against the issuer in the event of a
16 default?

17 A. I'm not aware of any revenue
18 bonds that are, as you called them,
19 nonrecourse.

20 Q. Are you familiar with a sinking
21 fund?

22 MR. MASHBERG: Objection to form.

23 MS. SPILLANE: Objection to form.

24 MR. NATBONY: Same.

25 BY MR. ARRASTIA:

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2 Q. That existed at the point of the
3 petition date?

4 A. I don't know what you're asking
5 me.

6 Q. Okay. Well, I'm asking if you're
7 familiar with it. And if you don't know,
8 then --

9 A. I don't know what you're talking
10 about.

11 Q. Have you heard of something
12 called the sinking fund with respect to
13 PREPA?

14 A. Bond issues often have term bonds
15 with sinkers or bond fund where cash flow
16 is received and then paid out by the
17 trustee to the bondholders --

18 Q. Okay.

19 A. -- if that's what you're asking
20 about.

21 Q. Did that exist with respect to
22 these power revenue bonds?

23 A. PREPA had term bonds with sinkers
24 and sinking funds, yes.

25 Q. And do you know how much cash was

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2 in those sinking funds as of the petition
3 date?

4 A. I don't recall.

5 Q. Earlier we talked about an actual
6 or potential challenge with respect to the
7 bond claims.

8 Do you know if that had to do
9 with respect to the -- whether or not they
10 were secured or unsecured?

11 MR. MASHBERG: Objection to form.

12 A. It had to do with whether they
13 had a lien, which would mean that
14 potentially if funds were transferred into
15 the bond funds or were not transferred in,
16 the bondholders wouldn't have a right to
17 them. That was what Proskauer's position
18 was.

19 Q. And just to be clear, so your
20 understanding was -- is that this -- the
21 lien would be on the funds and these term
22 bond sinkers?

23 A. In the bond funds --

24 MR. MASHBERG: Objection to form.

25 MS. SPILLANE: Objection to form.

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2 A. -- is what I would tell you.

3 Q. Did you ever have a conversation
4 with the FOMB with respect to the issue of
5 liens on the term bonds?

6 A. We had numerous conversations
7 with the board on that topic led by
8 Proskauer. Since I am not an attorney, I
9 wouldn't be the one making the case for
10 that.

11 MR. MASHBERG: I would just
12 caution the witness in further
13 questions not to disclose
14 communications with Proskauer to the
15 board at which he was present with
16 regard to any legal advice or legal
17 analysis. That would be subject to the
18 attorney-client privilege given the
19 role that Citi was playing in this
20 process as an adviser to the board.

21 MR. ARRASTIA: Thank you for
22 that. I'm trying to tap dance around
23 it, by the way.

24 MR. LYNCH: And I would just like
25 to object to that cautioning because it

<p style="text-align: right;">Page 110</p> <p>1 D. Brownstein - Professional Eyes Only 2 that during a majority of the day, the 3 amount of utilization of PG&E's system, as 4 an example, is very low. 5 But at night, PG&E's requirements 6 go up dramatically in electricity they 7 need. So they have to maintain systems in 8 place to cover that peak need for the 9 public. And yet if you think about it, if 10 you're only paying for what you use, then 11 how does PG&E maintain that system and keep 12 that system operating properly 24/7 for the 13 time that people need it off-peak or peak 14 for -- because there's no sun out. 15 So that is what we are telling 16 the public in Puerto Rico that they -- 17 clearly we've seen a lot of push back on. 18 If you want to remain on the 19 system and therefore have the right to call 20 on it at will, we have to, PREPA has to 21 maintain it. Someone has to pay for it. 22 You will cover your share of the legacy 23 debt to cover it. 24 So that's the last piece of the 25 really three pieces of the demand</p>	<p style="text-align: right;">Page 111</p> <p>1 D. Brownstein - Professional Eyes Only 2 protections. 3 Q. Okay. You mentioned that with 4 respect to the government or 5 instrumentalities paying the power bills, 6 that the government has to own that issue. 7 But it's actually the consumers, government 8 or otherwise, that would have to pay? 9 A. No. 10 MS. SPILLANE: Objection to form. 11 A. Here's how we look at this. And 12 the government looks at it, by the way. 13 Q. Which government? 14 A. The government of Puerto Rico. 15 Q. Okay. Current government, last 16 government? 17 MS. SPILLANE: Objection to form. 18 BY MR. ARRASTIA: 19 Q. Which government? 20 A. AAFAF. 21 Q. Okay. 22 A. And the issue here is that the 23 public, the general public will be aware 24 now that if their rates go up, it's because 25 the government of Puerto Rico or PRASA, or</p>
<p style="text-align: right;">Page 112</p> <p>1 D. Brownstein - Professional Eyes Only 2 the local government wasn't paying. And so 3 they have a voice. That's something that 4 wasn't known before, wasn't part of how -- 5 there was no transparency as to how your 6 charge was set. 7 Q. Right. 8 A. And as I think we all are aware 9 in this room, PREPA has issues. Everybody 10 has issues. There's goals of trying to 11 eliminate PREPA as the operating entity 12 here because of those issues. 13 So by creating transparency as to 14 how your charges could be impacted, the 15 public, through their voice, will make it 16 clear that PRASA needs to pay its own 17 bills. 18 Q. And when you spoke about, 19 mentioned AAFAF, you had spoken with them 20 about this? 21 A. Yes. They were the principal 22 designer of this. 23 Q. Okay. And when did that happen? 24 A. It's been going on for a very 25 long time. Since the beginning of</p>	<p style="text-align: right;">Page 113</p> <p>1 D. Brownstein - Professional Eyes Only 2 negotiations with the creditors, we've been 3 negotiating and negotiated -- pretty much a 4 concept in principle, from my perspective, 5 at the time we signed the preliminary RSA 6 as to what demand protections were going to 7 be. 8 Q. Okay. Specifically including the 9 government instrumentality aspect failing to 10 pay their own power bills? 11 A. Well, it's a function of -- it's 12 the one-and-a-half percent, if you think 13 about it that way, right? 14 If the bill is sent out and more 15 than one-and-a-half percent of those -- 16 Q. Right. 17 A. -- of the revenues don't come in, 18 we get to unfortunately be left with an 19 increased charge for the public at large. 20 And so, yes, they were well 21 integrated into the discussion as to how do 22 we -- what can we do and will we do to make 23 sure that the public is not impacted by 24 this. 25 Q. Okay. But is the government --</p>

<p style="text-align: right;">Page 114</p> <p>1 D. Brownstein - Professional Eyes Only 2 and in your declaration, that's Roman 3 numeral 3 -- 4 A. On what page? I'm sorry. 5 Q. That's on page 19, and that is 6 the continuation of paragraph 44. 7 (Document review.) 8 A. Um-hmm. 9 Q. I just want to make sure that I 10 understand; I'm not confused. 11 So the government or 12 instrumentalities failing to pay their own 13 power bills, which is Roman numeral 2, is 14 separate from the general public fails to 15 pay their bills in full? 16 A. That's correct. 17 Q. Okay. 18 A. That's where the general public 19 is one-and-a-half percent. The government 20 entities is if they don't pay them. 21 Q. Now, when you were describing 22 this, you mentioned a couple of times that 23 some of these aspects at least were fairly 24 standard in the U.S.? 25 What do you base that on, the</p>	<p style="text-align: right;">Page 115</p> <p>1 D. Brownstein - Professional Eyes Only 2 fact that you consider it fairly standard? 3 A. How securitizations are 4 structured. So if you look at the criteria 5 for getting a rating on a securitization 6 bond in the utility space, the rating 7 agencies pretty much block you off on how 8 it needs to be structured in order to get 9 to a rating. 10 The fact is, we will not get to a 11 rating on these bonds. These bonds aren't 12 structured to obtain a rating. I don't 13 know if they will ever been in a position 14 to obtain a rating because the specific 15 criteria, the first criteria of the rating 16 agencies is a true-up. 17 MS. SPILLANE: Counsel, if you're 18 reaching a natural stopping place, I 19 think we can break for lunch soon. 20 MR. ARRASTIA: That's good. Does 21 this work fine? 22 THE VIDEOGRAPHER: The time is 23 12:20 p.m. going off the record. 24 (Recess is taken.) 25</p>
<p style="text-align: right;">Page 116</p> <p>1 D. Brownstein - Professional Eyes Only 2 A F T E R N O O N S E S S I O N 3 (Time noted: 1:20 p.m.) 4 * * * 5 THE VIDEOGRAPHER: The time is 6 12:59 p.m. We are on the record. 7 8 D A V I D B R O W N S T E I N, resumed 9 and testified as follows: 10 EXAMINATION BY (Cont'd.) 11 MR. ARRASTIA: 12 Q. Mr. Brownstein, you used the term 13 "true-up" a little bit during your 14 testimony. 15 Could you explain to me what you 16 mean by true-up? 17 A. Sure. 18 So it's not that different -- in 19 fact, it's identical except for potentially 20 timing -- to a rate covenant for a revenue 21 bond. So if you look at, as an example, 22 the PREPA indenture, right, PREPA is 23 obligated to maintain rates and charges on 24 the debt sufficient to cover debt service 25 at 1.2 times coverage.</p>	<p style="text-align: right;">Page 117</p> <p>1 D. Brownstein - Professional Eyes Only 2 In a true-up on a securitization 3 bond, you also have a true-up equivalent of 4 a rate covenant where on a monthly basis, 5 you will adjust the rates and charges that 6 the customers pay so that you have a 7 sufficient amount of money to cover one 8 times, usually, debt service on the 9 upcoming next payment. 10 And the reason that it's one 11 times as opposed to 1.2 has a lot to do 12 with two things. 13 One, the reserve requirement on a 14 securitization, so there's cash there to 15 cover that monthly shortfall if need be, 16 but the constant obligation to adjust the 17 charge monthly as opposed to for revenue 18 bonds where it's generally changed 19 quarterly or semiannually. 20 Q. Okay. 21 A. So it's the same concept as we 22 already had and that you'd see in LIPA, you 23 see in California state securitization 24 bonds, things of that sort. 25 Q. All right. So -- but the current</p>

<p style="text-align: right;">Page 118</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 PREPA bonds, those have a specific period?</p> <p>3 A. They have a rate covenant.</p> <p>4 MR. MASHBERG: Objection to form.</p> <p>5 A. They have a rate covenant.</p> <p>6 Q. Okay. But do the bonds have a</p> <p>7 certain period of time, 30 years, 50 years,</p> <p>8 60 years? Or can they go on forever?</p> <p>9 A. Oh, no, the existing revenue</p> <p>10 bonds have a final state in maturity, but</p> <p>11 there is a default when payment due.</p> <p>12 Q. Okay.</p> <p>13 A. So that's when you can have the</p> <p>14 creditors require a receiver, as an</p> <p>15 example, to make sure that you actually</p> <p>16 comply with the rate covenant, which is the</p> <p>17 1.2 times.</p> <p>18 Q. Okay.</p> <p>19 A. But I think what you were asking</p> <p>20 me, if I can -- just to be clear so I</p> <p>21 answer your question properly, is what</p> <p>22 happens at maturity, not on an ongoing</p> <p>23 basis; is that right?</p> <p>24 Q. No.</p> <p>25 A. Okay. Sorry.</p>	<p style="text-align: right;">Page 119</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 Q. I was just wondering if it had a</p> <p>3 maturity date. That's all. And you</p> <p>4 answered it.</p> <p>5 A. Okay. In neither case -- they</p> <p>6 both have maturities, but failure to pay in</p> <p>7 both cases doesn't allow you to walk away</p> <p>8 from your liability.</p> <p>9 Q. Wait a second. When you say, I'm</p> <p>10 sorry, in both cases, what do you mean by</p> <p>11 "both cases"?</p> <p>12 A. Securitization as well as the</p> <p>13 revenue bonds.</p> <p>14 Q. And the revenue bonds do not have</p> <p>15 the true-up, correct?</p> <p>16 A. They have a rate covenant which</p> <p>17 is stricter and requires that you maintain</p> <p>18 or you are in default.</p> <p>19 Q. Okay. But is there a provision</p> <p>20 that if the debt service isn't made, that</p> <p>21 debt service is carried over?</p> <p>22 A. You have an acceleration</p> <p>23 potentially of the debt. You have a</p> <p>24 default and remedies for default under a</p> <p>25 revenue bond and in case of PREPA. That's</p>
<p style="text-align: right;">Page 120</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 what we were -- we're arguing over is what</p> <p>3 are the remedies the bondholders are</p> <p>4 entitled to, including appointment of a</p> <p>5 receiver.</p> <p>6 Q. Okay. The Tranche A bonds under</p> <p>7 the RSA, those have a term, correct?</p> <p>8 A. They have a stated term.</p> <p>9 Q. Okay. And -- because you said</p> <p>10 PREPA bonds, and I want to make sure we're</p> <p>11 clear.</p> <p>12 When you say -- when we're</p> <p>13 talking about them, I'm talking about the</p> <p>14 bonds contemplated Tranche A --</p> <p>15 A. The securitization?</p> <p>16 Q. Yes.</p> <p>17 A. Okay.</p> <p>18 Q. So the debt service, if it's not</p> <p>19 made in any particular period, does it</p> <p>20 carry forward?</p> <p>21 A. It carries forward. That's the</p> <p>22 only right the bondholders have is to, over</p> <p>23 time, receive repayment. That time period</p> <p>24 on Tranche A could be 300 years. So they</p> <p>25 have no remedies other than for a failure</p>	<p style="text-align: right;">Page 121</p> <p>1 D. Brownstein - Professional Eyes Only</p> <p>2 by the servicer to charge customers.</p> <p>3 So if you don't send out bills, I</p> <p>4 the securitization holder, the bondholder,</p> <p>5 can force a replacement of the party</p> <p>6 responsible for sending out those bills.</p> <p>7 Q. Okay.</p> <p>8 A. So that is the only remedy that</p> <p>9 you have. Other than that, you wait to get</p> <p>10 paid until there's cash flow sufficient.</p> <p>11 And, again, that cash flow is fixed from</p> <p>12 customers on a charge per kilowatt-hour,</p> <p>13 subject to the demand protections we've</p> <p>14 already talked about.</p> <p>15 Q. Okay. And until the cash flow is</p> <p>16 sufficient, is it fair to say that as the</p> <p>17 debt service carries forward, it's interest</p> <p>18 on interest?</p> <p>19 MS. SPILLANE: Objection to form.</p> <p>20 A. Yes.</p> <p>21 Q. You said Tranche A could be 300</p> <p>22 years.</p> <p>23 What do you mean by that?</p> <p>24 A. It means that it could take -- as</p> <p>25 long as it takes to get you repaid, you</p>

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<p>1 D. Brownstein - Professional Eyes Only 2 will get repaid, but the present value 3 recovery to you, obviously you as a 4 bondholder goes down every day you wait, 5 right? Because you're not getting your 6 principal back. 7 Q. Okay. Now you had -- I believe 8 it was modeled that there's an expectation 9 that the Tranche A bonds will be repaid in 10 33 years? 11 A. Correct. 12 Q. Even though it's a 40-year 13 maturity? 14 A. Correct. 15 Q. And what sort of load was used in 16 coming up with a repayment in 33 years? 17 A. The fiscal plan. 18 Q. Which one? 2018? 19 A. The April of 2018. Is that 20 right? 21 MS. SPILLANE: Answer to your 22 memory if you're not sure. 23 A. Yes, I think it was 2018. It 24 could have been -- no, it would have 25 been...</p>	<p>1 D. Brownstein - Professional Eyes Only 2 I'm terrible with dates. I 3 apologize. 4 Q. Not a problem. 5 Has -- 6 A. But it's in the RSA. Somewhere 7 it says it. 8 Q. Okay. Has that load calculation 9 changed, do you know, from 2018 to 2019? 10 A. Yes. 11 Q. How has it changed? 12 A. Well, there's been several 13 additional fiscal plans since then. And I 14 believe in some of them, it has gone down 15 more before it started going up. And in 16 others, it went up. It is based on the 17 numbers when we struck a deal. 18 Q. And hasn't been revisited since 19 striking that deal? 20 A. Correct. 21 Q. Now I look back at this handy 22 electronic device, and I realize that I 23 wasn't very clear. 24 You had asked me to give you a 25 definition of nonrecourse. When I looked</p>
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<p>1 D. Brownstein - Professional Eyes Only 2 at it, I was not accurate. 3 So we talked about the PREPA 4 bonds and you asked me for a definition. 5 So if we use my definition that nonrecourse 6 is a secured loan that's secured by a 7 pledge of collateral and recourse allows an 8 issuer to collect from collateral or any 9 other assets of the issuer, do you have an 10 understanding as to whether or not the 11 PREPA bonds are recourse or nonrecourse? 12 MS. SPILLANE: Objection to form. 13 MR. MASHBERG: Objection. 14 MR. NATBONY: Objection. 15 A. We could try one more time if you 16 want to try and help me understand your 17 definition. 18 Q. Sure. 19 A. I'm not trying to be difficult. 20 I don't understand. 21 Q. That's okay. That's fine. And I 22 don't think that you are, by the way. 23 Let me ask you this way: The 24 PREPA bonds, there were certain claims as 25 to security.</p>	<p>1 D. Brownstein - Professional Eyes Only 2 Do you know or do you have an 3 understanding as to what they were secured 4 by? 5 A. Well, they have a rate covenant, 6 right? 7 Q. Okay. 8 A. Which requires that the -- that 9 PREPA charge the customer base to cover 10 debt service at 1.2 times. 11 Q. Okay. 12 A. So whether they have -- what I 13 can't answer for you, because I'm not a 14 lawyer, is whether having a lien or not 15 having a lien on the debt service funds 16 changes in any way, shape, or form whether 17 they're entitled to the revenue charge 18 against the system. And clearly the 19 indenture requires that excess money, after 20 payment of certain expenses, flows through 21 to the debt service fund. 22 So I'm not in a position to 23 answer for you in any way, shape, or form 24 whether in fact that creates a secured or 25 an unsecured position because of what</p>

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<p>1 D. Brownstein - Professional Eyes Only 2 arguably people are considering is a 3 challenge with a lien. 4 Q. Okay. 5 A. All right? I don't know how to 6 help you with that. 7 Q. And I want to make sure that -- 8 because we talked about those definitions 9 before. 10 And so this debt, let's see, that 11 you just referred to, debt service fund, 12 that is the sinking fund account or 13 something else? 14 MS. SPILLANE: Objection to form. 15 MR. NATBONY: Objection. 16 A. So if you look at the indenture, 17 it specifically outlines the different 18 trust accounts there are. And the debt 19 service fund is where all the cash flows to 20 pay debt service on the bonds when due. 21 Q. Okay. 22 A. That's how I understand it. 23 Q. And so it hasn't come into your 24 analysis whether or not -- or what 25 collateral might have been subjected to a</p>	<p>1 D. Brownstein - Professional Eyes Only 2 lien? 3 MS. SPILLANE: Objection to form. 4 MR. HAMERMAN: Objection to form. 5 A. No. 6 Q. Have you ever you finalized the 7 securitization cash flow? 8 MS. SPILLANE: Objection to form. 9 MR. MASHBERG: Objection to form. 10 A. The only portion of the 11 transaction from our perspective that isn't 12 finalized is what will be the charge 13 necessary to cover the total debt service 14 which depends on when the Commonwealth and 15 PREPA put in place charges that will be 16 paid by the customer base. 17 Q. Okay. 18 A. If you look at the RSA, the 19 expectation is there would be a one cent 20 charge going into effect in July of 2019 21 that would be a credit against interest 22 due. And the longer we wait to put that in 23 place, the higher we're accruing on that 24 effectively and have to pay it. 25 Q. Okay.</p>
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<p>1 D. Brownstein - Professional Eyes Only 2 A. Right? 3 So that is the only portion that 4 is an unknown. 5 Q. Okay. I'll get back to that. 6 So if that is the only unknown, 7 would it be fair to say that the load that 8 was used from the 2018 fiscal plan is the 9 load that will be used in finalizing any 10 cash flow for the securitization? 11 A. As I said, everything else I 12 believe is in place and finalized. 13 Q. So you mentioned that one cent 14 charge. 15 Is it your understanding that 16 that was supposed to be or intended to be 17 in effect prior to this date? 18 MR. NATBONY: Objection as to 19 form. 20 MS. SPILLANE: Objection. 21 A. I believe so. I mean, we'd have 22 to look at the RSA, but I believe it's in 23 there with a specific date. 24 Q. Do you have an understanding of 25 when it might be?</p>	<p>1 D. Brownstein - Professional Eyes Only 2 A. I don't. 3 Q. Can you tie it to anything in 4 this process, a 9019 hearing, confirmation, 5 plan of adjustment? 6 A. Can I tie it how? What do you 7 mean by that? 8 Q. In other words, you might not 9 have a date. You might not be able to tell 10 me December 3rd, 2021, but you might be 11 able to say it would be around the same 12 time as this other event even if you don't 13 know what that date will be. 14 A. It was expected to be July 2019. 15 There is no other date. That is the date. 16 Q. So that one cent per 17 kilowatt-hour, is that expected -- is that 18 accruing interest? 19 A. No. It was a reduction against 20 the interest we owe on the bonds between 21 now and settlement. 22 Q. Now when this is implemented -- 23 let me rephrase it. 24 If this one cent reduction is 25 implemented, upon the first payment, would</p>

1 D. Brownstein - Professional Eyes Only
2 MR. ARRASTIA: It starts "Certain
3 covenants," and the subsection I'd like
4 Mr. Brownstein to focus on in his
5 responses, IB5.
6 A. Which is "Imposed charges, taxes,
7 or other fees."
8 Q. Correct.
9 (Document review.)
10 A. Okay.
11 Q. So let me go back to what I
12 believe was my question, which is: And
13 what is your understanding of the permitted
14 indebtedness under the RSA?
15 MR. HAMERMAN: Objection.
16 MS. SPILLANE: Objection.
17 A. So the first and most important
18 thing for everybody to understand is this
19 relates specifically to pre-park party
20 securitization bonds. It does not mean
21 that under other means we can issue
22 additional debt.
23 Having said that, the purpose of
24 this was to give us the flexibility to
25 issue additional bonds for a couple of very

1 D. Brownstein - Professional Eyes Only
2 important purposes.
3 One, to cover any pension
4 liabilities.
5 Two, to cover expenses necessary
6 for operations. So that would include, as
7 an example, reserves that the
8 concessionaire would require that we
9 maintain for operations and potentially for
10 capital requirements.
11 I don't know if that fully
12 answers your question or if there is more
13 to your question.
14 Q. If that is your understanding,
15 then you have fully answered my question.
16 A. Then I fully answered your
17 question.
18 Q. Okay. Let me follow up. You
19 said that there are other means.
20 A. Yes.
21 Q. What are the other means other
22 than imposing charges, taxes, or other fees
23 on electricity?
24 A. We could issue revenue bonds
25 potentially as a means to generate cash

1 D. Brownstein - Professional Eyes Only
2 flow. So we clearly would want to make
3 sure those were structured in a way that
4 wouldn't interfere with our ability to
5 bring in a concessionaire, which is one of
6 the reasons we weren't comfortable with the
7 original RSA because of the mirror bonds
8 the insurers had, but there are ways to
9 accomplish that.
10 So what you need to keep in mind
11 is any debt we issue requires that we
12 charge the customer base. So it's more
13 important that we find mechanisms to borrow
14 money at the lowest cost of capital
15 possible and that they're structured in a
16 way where we protect the consumer against
17 rate increases as a result of utilization,
18 which I've probably said 50 times today.
19 Q. So revenue bonds -- your
20 understanding is that revenue bonds are not
21 encompassed by this provision No. 4 that
22 we're looking at?
23 A. I believe that's case, yes.
24 Q. Where did you get that belief?
25 MS. SPILLANE: Objection to the

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2 extent that it bears on the advice of
3 counsel.
4 A. So I'd need to withhold any
5 dialogue.
6 Q. Okay. Did you negotiate this
7 provision?
8 A. I was in the room when we
9 negotiated it, yes.
10 Q. Who else was in the room?
11 A. The attorneys representing the
12 government and the board.
13 Q. Okay. This is what I would like
14 you to help me to understand, if you can.
15 It says basically "prescribes
16 authorizing debt secured by restructuring
17 property or any other rights or interest in
18 electric rates or charges other than
19 secured obligations, transition charge
20 provided for in the RSA."
21 Can you explain to me how PREPA
22 could hope to issue revenue bonds or
23 obligate itself in some other way to get
24 capital that doesn't fall into that
25 provision?

1 D. Brownstein - Professional Eyes Only
2 A. I think that's --
3 MS. SPILLANE: Objection to form.
4 A. -- a question not for me. I'm
5 not a lawyer.
6 Q. Well, do you have an
7 understanding?
8 A. I think it's a question not for
9 me as to how you accomplish it. You're
10 asking a legal conclusion --
11 Q. No, I'm not.
12 A. -- and I'm not going to provide
13 one. I don't -- I'm not in that business.
14 Q. And that's why I'm not asking
15 one, sir.
16 I'm just asking, do you have a
17 view?
18 A. I believe from my discussions
19 with -- so, no, I'm not prepared to respond
20 to your question.
21 Q. Okay. So in your experience
22 working in this field, you have no
23 viewpoint as to how revenue bonds or
24 another obligation can be incurred that
25 isn't prohibited by this?

1 D. Brownstein - Professional Eyes Only
2 A. I believe what you're asking, if
3 I can put this into my words for a moment,
4 is, is there mechanism here under which we
5 can provide funding for the UCC.
6 Q. Among other things, that is a
7 subset of the question.
8 A. And based on discussions with
9 counsel, I believe there is.
10 Q. Okay.
11 A. Okay? But that's as far as I
12 will go today.
13 Q. Would it be fair to say that you
14 still believe -- that you believe that
15 after the execution of the RSA, there would
16 still be value in PREPA sufficient to pay
17 creditors other than the supporting
18 bondholders?
19 MS. SPILLANE: Objection to form.
20 MR. HAMERMAN: Objection to form.
21 MR. NATBONY: Objection to form.
22 MR. MASHBERG: Same.
23 A. I believe there is always a
24 roadmap available to accomplish goals if
25 you want to accomplish them. That's why we

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2 MR. HAMERMAN: Objection to form.
3 MS. SPILLANE: Objection to form.
4 A. That would be based on my
5 discussions with counsel, so I'm not going
6 to respond.
7 Q. Okay. Are you aware of any
8 provision in the RSA that allows PREPA to
9 impose additional charges or issue
10 additional debt to repay other legacy
11 obligations without bondholder consent?
12 MR. HAMERMAN: Objection.
13 MR. MASHBERG: Objection to form.
14 A. Again, I would suggest to you
15 that those are discussions that I'm not in
16 a position to discuss with you.
17 Q. Okay. Are you aware of anything
18 in the RSA that talks about -- that just
19 uses the words additional charges or
20 additional debt to repay legacy
21 obligations?
22 MS. SPILLANE: Objection to form.
23 MR. NATBONY: Objection.
24 MR. MASHBERG: Object to the
25 form.

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2 have this RSA with bond creditors on PREPA.
3 Q. I'm sorry, I don't understand.
4 Do you mean to say that this RSA
5 reflects the fact that -- or your belief
6 that -- what? I'm sorry. I'm confused. I
7 don't understand.
8 A. That's okay. Let me say it, try
9 and say it a little better for you.
10 Q. How about different? I'm not
11 going to categorize that.
12 A. What I am saying is that this RSA
13 is very complicated and was clearly very
14 difficult to negotiate. If we could
15 accomplish this when we wanted to, we can
16 clearly accomplish a roadmap to settlements
17 with other creditors if we choose to.
18 Q. Okay. Do you know if the FOMB
19 has chosen to do that?
20 MS. SPILLANE: Objection to form.
21 MR. MASHBERG: Objection.
22 To the extent that your answer
23 would implicate any communications with
24 lawyers or the FOMB, I would ask that
25 your counsel direct you not to answer

1 D. Brownstein - Professional Eyes Only
2 the question.

3 MS. SPILLANE: Do you have an
4 answer based on things other than
5 legal --

6 MR. ARRASTIA: Well, I just asked
7 if. I didn't ask him the substance.

8 A. Well, unfortunately, all of my
9 dialogue would involve both the board and
10 Proskauer; so I think for now, I need to
11 not answer that.

12 Q. Do you know if the RSA that you
13 negotiated requires bondholder consent to
14 reach a settlement with other creditors?

15 MS. SPILLANE: Objection to form.

16 MR. NATBONY: Objection.

17 MR. HAMERMAN: Objection.

18 A. Under circumstances, yes. Under
19 others, no.

20 Q. Okay. What circumstances yes?

21 MR. HAMERMAN: Same objection.

22 MR. NATBONY: Same. Calls for a
23 legal conclusion.

24 A. Yeah, as I said earlier, I mean,
25 your line of questioning continues to be

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2 based on my dialogue with counsel. And,
3 therefore, I'm going to have to decline to
4 give you a response right now.

5 Q. I'm asking you what's in a
6 document that's public that you negotiated.
7 I'm asking you if you think it's in this
8 document.

9 A. I believe it is. And, again,
10 that is based on dialogue with counsel. So
11 I'm going to have to leave it there.

12 Q. Okay.

13 A. Okay?

14 Q. Have you read something in this
15 document that indicates to you that you
16 need shareholder consent to reach a
17 settlement with other creditors?

18 MS. SPILLANE: Objection to form.

19 MR. MASHBERG: Objection to form.

20 MR. HAMERMAN: Objection.

21 MR. NATBONY: Objection.

22 A. What I understand is that the
23 fuel line lenders' counsel believes we do.

24 Q. Does anyone else, that you know?

25 MR. HAMERMAN: Same objection.

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2 MS. SPILLANE: Objection.

3 MR. MASHBERG: Same objection.

4 A. I will answer the way I answered
5 it a moment ago because I think that's the
6 best answer I can give to be helpful.

7 I believe that to the extent we
8 want to solve a problem, we can accomplish
9 that goal.

10 MR. ARRASTIA: Why don't we take
11 a quick break. Let me look through my
12 notes, please.

13 THE VIDEOGRAPHER: The time is
14 1:41 p.m. We are off the record.

15 (Recess is taken.)

16 THE VIDEOGRAPHER: The time is
17 2:03 p.m. We are back on the record.

18 BY MR. ARRASTIA:

19 Q. Let me go back and clear up a
20 couple of things where I wasn't certain.

21 You had talked a little bit about
22 RSA bonds that were currently trading at a
23 discount to par.

24 Do you recall that?

25 A. Yes.

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2 Q. All right. Is that discount to
3 par, do you know if that's related -- or
4 let me put it this way: Do you know if
5 those bonds bear the risk that the RSA
6 won't be approved and those bonds won't be
7 issued?

8 MS. SPILLANE: Objection to form.

9 MR. HAMERMAN: Objection.

10 A. There are loads of components as
11 to why their value is less than par, and
12 that clearly has a role in it as well.

13 Q. Okay.

14 A. The bigger role is that as a
15 credit, there is a limited number of buyers
16 who can buy it from the current owners
17 because of the structure.

18 Q. Okay. If those -- if the RSA is
19 approved and those bonds are issued, will
20 the pool of potential buyers grow?

21 A. No. Unfortunately, it's about
22 credit, not about legals.

23 Q. Have you evaluated how much of a,
24 of the factor, the fact that the RSA might
25 not be approved and the bonds issued, have

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2 you analyzed how much of a factor that is
3 in the trading value?

4 MS. SPILLANE: Objection to form.

5 A. I'm an investment banker. I'm
6 not a trader, okay?

7 Q. So from that, I take it that you
8 haven't done that analysis? It's not in
9 your bailiwick?

10 A. Correct.

11 I think it would be more in the
12 bailiwick of an AlixPartners to do for you.

13 Q. Okay. And your projection is
14 that once these bonds are issued, that they
15 will, based on the 2018 load, they will
16 perform well?

17 MS. SPILLANE: Objection to form.

18 MR. MASHBERG: Objection to form.

19 MR. HAMERMAN: Objection.

20 A. No.

21 Q. Okay. So why don't you think
22 that they will perform -- well, let me ask
23 you this: These were 40-year maturity
24 bonds, correct?

25 A. Yes.

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2 Q. And you have calculated an
3 expectation that they will be paid off in
4 33 years?

5 A. No, I have not done a calculation
6 that expectations are they will be paid in
7 33 years.

8 Q. Okay. And where did that
9 expectation come from?

10 A. That is based on the fiscal
11 plan's numbers. And using those numbers,
12 we structured to, based on the numbers,
13 have the bonds amortized within 33 years,
14 the Tranche A bonds.

15 Q. Sorry, just to be clear, Tranche
16 A, right?

17 A. Um-hmm. That's what I said.

18 Q. What you say and what I hear are
19 not always the same. But thank you.

20 Now when we talked about the
21 permitted indebtedness, you said that you
22 were in a room with counsel and -- when
23 some of the items were discussed.

24 Which counsel are you referring
25 to?

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2 A. Counsels to both AAFAF and the
3 board.

4 So perhaps I can make this a
5 little easier and give you one of the
6 examples of how I believe we can issue debt
7 to cover other liabilities.

8 And if you were to go to the back
9 of the RSA, which you've given us, and
10 let's go to 14, which is right before
11 Schedule I-A. Let's see, so what does that
12 mean it is? It would be way in the back --

13 MS. SPILLANE: Annex A?

14 THE WITNESS: Annex A. Thank you
15 for finding that so quickly for me.

16 A. Annex A, the Recovery Plan Term
17 Sheet.

18 MR. LYNCH: Where are we?

19 THE WITNESS: Annex A. It's in
20 the back. It's like 15 pages from the
21 end at most.

22 MS. SPILLANE: It's a chart form.

23 A. It's a chart form. This is
24 the --

25 Q. Let me make sure we're on the

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2 same page.

3 A. Sorry.

4 Q. Is it this (indicating)?

5 A. So it's Annex A to Recovery Plan
6 Term Sheet.

7 Q. Right.

8 A. And then please go to page 14.
9 You found it?

10 Q. Yeah. The next page is I-A-1.

11 A. The next page is I-A-1, correct.

12 Q. That helps.

13 MR. LYNCH: Thank you.

14 A. Take a look at "Other Charges."

15 Q. Okay.

16 (Document review.)

17 A. Did you find it?

18 Q. Oh, no, I've got it.

19 A. Okay.

20 Q. Is there something else or is
21 that what you wanted to point out?

22 A. No. That's an example of, as I
23 have said, I believe there are mechanisms
24 we could use to finance legacy charges.

25 Q. Okay. Now so let me ask you

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2 this: It says, "Subject to any
3 restrictions of the securitization trust
4 agreement."

5 A. Um-hmm.

6 Q. Is it your understanding that
7 that includes the Certain Covenants
8 position that we looked at starting on 1B4?
9 Or 1B4 doesn't apply to the provision you
10 just shared with us?

11 MS. SPILLANE: Objection to the
12 extent it calls for a legal
13 conclusions.

14 MR. NATBONY: Objection.

15 MR. HAMERMAN: Objection.

16 A. What I would do is suggest,
17 Counsel, that you all take a look at the
18 section and the others. And, as I've said,
19 I believe there is a roadmap to doing what
20 we need to do to get to a successful
21 conclusion of PREPA so that we can help the
22 people of Puerto Rico with their recovery.

23 Q. Okay.

24 A. And in case you're not aware of
25 it, I'm one of those people, Counselor.

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2 Q. I appreciate your suggestion.

3 I was just asking if it is your
4 understanding, your belief, that these
5 other charges, the section you shared with
6 us, is still applicable in light of the
7 certain covenants that we talked about on
8 I-B-4 and IB5?

9 MR. NATBONY: Objection to form.

10 MS. SPILLANE: Objection. Calls
11 for a legal conclusion.

12 A. And I continue to give you the
13 same answer I've given you.

14 Q. You do not have an understanding?

15 MR. NATBONY: Objection to form.

16 A. I've given you the answer that
17 I've given you, which is I believe there's
18 a roadmap to accomplishing the goals that
19 we'd need to accomplish here.

20 Q. And you're suggesting that this
21 is the roadmap?

22 A. No, I'm suggesting --

23 MR. MASHBERG: Objection.

24 Mischaracterizes.

25 MS. SPILLANE: Objection to form.

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2 A. -- it's one of many places where
3 we can utilize this document to accomplish
4 whatever goals we need to accomplish for
5 the benefit of PREPA and the people of
6 Puerto Rico.

7 Q. All right. Speaking of
8 creditors, are you currently engaged in any
9 conversations with other creditors other
10 than the bondholders as to this roadmap
11 that you discussed?

12 A. No.

13 Q. Is that because they refuse to
14 engage or some other reason?

15 MS. SPILLANE: Objection to form.

16 MR. MASHBERG: Objection to form.

17 A. I believe the fuel line lenders
18 understand where the government parties are
19 today as it relates to PREPA. And I
20 believe with respect to the UCC, we're
21 trying to determine what actually -- who
22 your clients are and what your claims are.

23 Q. Thank you.

24 You mentioned government parties.
25 Let me talk to you a little bit about

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2 government.

3 I had asked you and you had
4 shared with me that you didn't know when
5 government approval might be forthcoming,
6 but I failed to ask you, do you know if --

7 A. Government approval of what? I'm
8 sorry. I know you asked --

9 Q. I'm sorry. Of the RSA.

10 A. Government approval of the RSA?

11 MS. SPILLANE: Legislative
12 approval?

13 A. They've approved it.

14 You meant legislation.

15 Q. Legislation. I'm sorry. We're
16 using different terms as to government. I
17 mean the legislature.

18 I asked you and you told you
19 didn't know when the legislature might?

20 A. Correct.

21 Q. Do you know if it will approve
22 it?

23 MR. MASHBERG: Objection to form.

24 A. I'm not on the legislature, so I
25 wouldn't know.

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<p>1 D. Brownstein - Professional Eyes Only 2 that? 3 A. Um-hmm. 4 Q. Okay. Did the government parties 5 have a goal of advancing the interests of 6 PREPA's creditors in connection with the 7 RSA? 8 MS. SPILLANE: Objection to form. 9 A. I don't understand your question. 10 MR. NATBONY: Objection as to 11 form. 12 A. PREPA is in bankruptcy. Our goal 13 is to make sure we utilize that to create 14 the most beneficial restructuring that we 15 can given our very difficult requirements, 16 including the cap charge, the duration 17 before execution will occur of the plan of 18 adjustment, and the other provisions of the 19 RSA, such as no acceleration rates. 20 Q. Under the RSA, if it's approved 21 and PREPA somehow generates significant 22 unexpected revenue or savings before a plan 23 is confirmed, the benefit of those revenues 24 or savings would go to ratepayers, right? 25 MR. NATBONY: Objection.</p>	<p>1 D. Brownstein - Professional Eyes Only 2 MS. SPILLANE: Objection to form. 3 MR. HAMERMAN: Objection to form. 4 MR. MASHBERG: Objection to form. 5 A. I'm sorry, I don't -- I believe 6 what you asked is in the event prior to the 7 plan being confirmed there are additional 8 revenues available at PREPA above the 9 required interest under the RSA that goes 10 to the RSA participants, that that money 11 would flow back to the ratepayers. 12 If that's what you're asking, I 13 don't know where it would flow, but if 14 there was excess after what's required 15 under the RSA to be paid to the 16 bondholders, I believe that money would be 17 the property of PREPA. 18 Q. Did you have a chance to read 19 those forbearance agreements that I showed 20 you before we broke at one point? 21 A. No. 22 Q. Do you understand -- without 23 looking at them, because I don't want to 24 take the time, but are you able to answer 25 this question without looking at it?</p>
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<p>1 D. Brownstein - Professional Eyes Only 2 Would you understand a 3 forbearance of Citi on its fuel line loan 4 to amount in effect to a re-lending of the 5 amounts due under the Citi fuel line loan? 6 MR. MASHBERG: Objection to form. 7 MS. SPILLANE: Objection to form. 8 MR. NATBONY: Objection. 9 MR. HAMERMAN: Objection. 10 A. Well, first of all, I haven't 11 looked at it. But, again, if your question 12 is about re-lending, let's make sure you 13 understand what happened with the 14 bondholders. 15 Q. Sure. 16 A. As I understand it from PREPA's 17 adviser at the time, Lisa Donahue, that the 18 concern was that in the event PREPA 19 defaulted on its bonds, they would not be 20 able to purchase fuel. It wasn't a 21 function of whether they would have money 22 to purchase it or not. What I understood 23 was that the fuel sellers would walk away. 24 So this was a matter of keeping 25 the lights on in Puerto Rico. And so what</p>	<p>1 D. Brownstein - Professional Eyes Only 2 happened was PREPA used cash it had to pay 3 bondholders their P&I other than the 4 signatories to the RSA, which included 5 Assured, National, Syncora and the ad hoc 6 group. So each of them agreed to lend 7 PREPA money so that they had sufficient 8 money to pay debt service on their bonds. 9 What I don't know is whether, but 10 I don't believe so, that the fuel line 11 loans were in the same position. But those 12 are questions for Lisa Donahue, not me. 13 Q. Okay. Let me direct your 14 attention to paragraph 36 of your 15 declaration. 16 A. Um-hmm. 17 Q. It says -- I'll wait until you 18 have it. 19 A. Yes. 20 Q. It says there, "In negotiating 21 the terms of the RSA, it was also necessary 22 to compensate supporting holders in 23 consideration of their prepetition 24 re-lending bonds that remain outstanding 25 and forbearance from exercising any rights</p>

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2 or remedies or seeking stay relief to do so
3 pending implementation of the RSA."

4 It goes on from there.

5 A. Um-hmm.

6 Q. What I'd like to know is why was
7 it necessary, in your view, to compensate
8 them for that?

9 A. Because what Lisa had agreed to
10 with the fuel line -- I mean with the
11 bondholders was that she would pay them
12 back at par on those loans, plus accrued,
13 very quickly after those loans were made
14 and that the purpose was, again, to keep
15 the lights on in Puerto Rico.

16 So we were honoring the deal that
17 the restructuring officer of PREPA had
18 agreed to with the fuel line lenders -- I
19 mean with the bondholders.

20 Q. Was it legally necessary in your
21 view to compensate the re-lenders the way
22 that PREPA has done under the RSA?

23 MS. SPILLANE: Objection. Calls
24 for a legal conclusion.

25 MR. NATBONY: Objection to form.

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2 A. I can't answer that question. I
3 don't know. But what I'm telling you is
4 that that was the business deal the
5 restructuring officer of PREPA agreed to
6 with the bondholders to make sure the
7 lights remained on in Puerto Rico, and we
8 didn't want to be the party that dishonored
9 that agreement to dishonor the agreement
10 that she had struck.

11 Q. Are you aware of Citi selling its
12 fuel line loan?

13 A. I know that Citi has sold its
14 fuel line loan, yes.

15 Q. Were you involved in the process
16 that led to the sale of that loan?

17 A. No. That would have been done by
18 an organization in Citi called IRM, which
19 is our restructuring arm, which works
20 independent from any other any other arm at
21 Citi. So they would not have engaged us in
22 that dialogue.

23 Q. Why don't I ask -- you were
24 talking about IRM and whether --

25 A. IRM would have done the sale of

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2 that asset through third parties, never
3 through our organization, through lawyers
4 who are not part of our organization, and
5 therefore we would have no role or dialogue
6 on that topic.

7 Q. And just so I'm clear, would they
8 also be the ones to decide whether it was
9 desirable for Citi to sell the fuel line
10 loan?

11 A. Correct.

12 Q. Okay. And you had no involvement
13 in the decision, regardless how it was
14 executed, to sell the Citi fuel line loan
15 is that --

16 A. Well, again, they have their own
17 counsel. They do their own analysis as to
18 credit risk and make a determination as to
19 whether to sell with outside counsel and
20 inside counsel of their choosing, who has
21 no tentacles to the business side of Citi.

22 Q. Okay. Please --

23 A. That's how banks work.

24 Q. Please turn to paragraph 25.

25 A. Of what document?

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2 Q. Of your declaration.

3 And just generally, you describe
4 in paragraphs 25 through 29 what you say
5 were the objectives of the government
6 parties in connection with the, the
7 negotiation with the RSA; is that fair?

8 A. Um-hmm. Yes.

9 Q. When were those objectives
10 decided upon?

11 A. At the time that the board first
12 engaged with the signatories to the RSA.

13 Q. How was -- how was it
14 communicated -- how were those objectives
15 communicated to you?

16 A. By the board in a meeting as we
17 prepared our proposal together to the RSA
18 signatories, the original RSA signatories,
19 to request that they agree to certain
20 changes to the RSA in advance of the
21 board's vote on whether to approve the RSA
22 or not.

23 Q. Are the objectives reflected in
24 any documents?

25 A. I'm sorry, are the objectives?

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2 Q. The objectives that are described
3 in paragraphs 25 through 29, is the
4 communication of those objectives reflected
5 in any documents?
6 A. In the RSA itself.
7 Q. I'm talking about from the
8 beginning of the negotiation of the RSA.
9 A. Yes. We submitted a presentation
10 to all of the creditors, including your
11 clients, with changes that we proposed in
12 order to proceed with the original RSA.
13 Do you not have that?
14 Q. I very well may.
15 A. Okay.
16 Q. Do you agree that bondholders
17 before -- while the fuel lines were being
18 paid, do you agree that bondholders derived
19 a benefit from PREPA being able to buy
20 fuel?
21 MS. SPILLANE: Objection to form.
22 MR. MASHBERG: Objection to form.
23 A. No.
24 Q. You were talking before about how
25 PREPA would go dark if it couldn't buy

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2 overall financial burden and risk on PREPA
3 and its ratepayers but added an additional
4 key component to any agreement that would
5 be reached to avoid disruption to the
6 transformation bid process. Supporting
7 holders would have to stay patiently on the
8 sidelines and wait to the effective date of
9 a confirmed plan of adjustment before
10 receiving the new securitization bonds."
11 Do you see that?
12 A. Um-hmm.
13 Q. Why do they needed to stay
14 patient eventually on the sidelines, the
15 supporting holders?
16 A. Because there is no way to
17 consummate the issuance of debt for them
18 without the plan of adjustment. And the
19 plan of adjustment would not go to court
20 until we had the operator or concessionaire
21 on board and could, as I said earlier
22 today, make sure that we were protecting
23 them against liability for prior actions at
24 PREPA.
25 Q. And why can't that happen after

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2 fuel, right?
3 A. Yes.
4 Q. Did the provision of the fuel
5 line credit benefit PREPA by permitting
6 PREPA to buy fuel?
7 A. No.
8 Q. Why not?
9 A. Because that's not what its
10 purpose was. It was a timing drag of 90
11 days, right?
12 It was all about a cash flow
13 need. It wasn't about actually paying into
14 a default to make sure that the lights
15 didn't go off. It's very different.
16 Q. Let's go to paragraph 29 of your
17 declaration.
18 (Witness complies.)
19 Q. And this is a paragraph that
20 talks about the transformation of PREPA,
21 correct?
22 A. Correct.
23 Q. And I'll start with the second
24 sentence. It says, "This goal ran in
25 tandem with the other goals to reduce the

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2 confirmation?
3 A. Because it's only through that
4 court that we can provide them those
5 protections.
6 Q. Can you help me understand that?
7 A. I'm not a lawyer, so I think that
8 I would recommend you speak to lawyers
9 about the reasons behind that.
10 Q. What liabilities would a
11 transformation partner be concerned about
12 succeeding to if it were -- if it were not
13 involved in the -- you know, in the plan
14 confirmation --
15 MS. SPILLANE: Objection to form.
16 BY MR. LYNCH:
17 Q. -- if a bid process were to
18 happen after the plan confirmation?
19 MR. MASHBERG: Objection to form.
20 A. I'm sorry, if I take over a
21 company and that company has liabilities
22 that spring up that were prior liabilities
23 after the day I acquired the company, I
24 still have liabilities for it.
25 Q. What prior liabilities would --